

## Jeff Novel

**DIRECTOR**

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Jeff, a Director of the Firm, focuses his practice on complex business litigation with an emphasis on matters involving financial institutions and real estate-related disputes. He has extensive trial experience and has successfully prosecuted and defended lawsuits on behalf of his clients in state and federal trial courts and before arbitration panels throughout Texas and other jurisdictions. Jeff also regularly handles appeals throughout the State of Texas.

Jeff serves as counsel for several banks, mortgage servicers, real estate developers and retailers. In the financial services sector, specific areas of representation include the following:

- Lender liability defense, including issues arising from non-disbursement of loan funds, termination of credit facilities, charging default rates, legality of fees and charges, refusing to extend loan terms, purported oral loan commitments, the rejection of payments after default, mortgage lending practices and claims based on contract, misrepresentation, fraud, securities fraud, breach of fiduciary duty and the Bank Tying Act.
- Insolvency and creditors' rights, encompassing every aspect of insolvency – ranging from debt restructuring, collection, foreclosures, workouts, involuntary bankruptcies and asset sales.
- Statutory and regulatory compliance, including the Bank Holding Company Act, the Americans with Disabilities Act, the Electronic Fund Transfer Act, the Real Estate Settlement Procedures Act, Consumer Financial Protection Bureau regulations and usury under the National Bank Act and State laws.

With respect to real estate-related matters, Jeff routinely handles cases involving the following:

- Representation of owners and managers of residential apartment complexes in relation to landlord-tenant issues, lease-related claims, utility and billing matters.
- Commercial leases, including eviction and forcible detainer actions, issues relating to rights of first refusal, common area maintenance and other reconciliation issues.
- Major construction disputes, including general contractor and subcontractor disputes.
- Purchase /sale contracts and options, including acquisition, specific performance and escrow matters, as well as rescission and other fraud / mistake claims.
- Title matters, including liens and ownership priority, mineral rights, easement rights, mechanic's lien rights, adverse possession and other prescriptive rights.

Jeff is AV Rated by Martindale-Hubbell and has been selected by his peers every year from 2009 through 2016 for inclusion in the Texas Super Lawyers list of Rising Stars published by Thomson Reuters, a designation given to lawyers under 40 who are viewed by their colleagues as preeminent in their respective practice areas. In addition, in 2012, Jeff received a Preeminent Rating in Health Care Law and was selected as a Top Rated Lawyer in Health Care in the



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### **LAW SCHOOL**

Southern Methodist University,  
Dedman School of Law  
J.D., *cum laude*, 2002

### **UNDERGRADUATE**

Southern Methodist University  
B.A. and B.B.A., *cum laude*, 1999

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February 2012 issue of Corporate Counsel. Further, in 2016, Jeff was selected in the Corporate America News Legal Elite Awards as Best Financial Institution Defense Litigator-Texas.

## Practice Focus

Complex Commercial Litigation, Construction, Distressed Assets, Financial Services, Health Care & Medical Peer Review, Intellectual Property, Litigation, Retail, Restaurant & Hospitality

## Honors

- AV Preeminent®, Martindale Hubbell
- Texas Rising Stars, Thomson Reuters (2009-2016)
- Top Rated Lawyer in Health Care by Martindale-Hubbell and Corporate Counsel, 2012
- Corporate America News Legal Elite 2016: Best Financial Institution Defense Litigator (Texas)

## Admissions

- State Bar of Texas, 2002

United States District Courts for the Northern, Southern, Eastern and Western Districts of Texas

## Associations

- Claims and Litigation Management Alliance
- Pro Bono College of the State Bar of Texas
- Dallas Bar Association
- Dallas Association of Young Lawyers
- Texas Young Lawyers Association

## Experience

- Represented FDIC in litigation against the officers and directors of a financial institution that failed during the financial crisis and obtained a significant settlement on behalf of client.
- Represented financial institutions in numerous workouts seeking to maximize recovery of amounts owed on troubled loans through modifications, restructuring of loan obligations and note and asset sales.
- Represented lenders and mortgage servicers in lawsuits by borrowers seeking to invalidate liens and prevent foreclosures.
- Defended numerous financial institutions in class action lawsuits alleging failure to comply with the Americans with Disabilities Act and Electronic Fund Transfer Act.
- Defended financial institutions in lawsuits relating to borrowers' obligations under ISDA Master Agreements and hedge transactions.
- Advised numerous financial institutions on compliance issues relating to automated teller machines.
- Represented regional restaurant chain in lawsuit seeking to recover damages from vendor in relation to data breach which resulted in favorable settlement.
- Unanimous jury verdict on behalf of a large national discount store chain in breach of lease action. The jury found that the landlord breached the lease and client was awarded substantial damages.
- Judgment on behalf of commercial landlord following a bench trial. The Court ruled that the tenant had breached its

lease, was properly evicted from the leased premises and that the landlord was entitled to a judgment for all amounts due and owing under the lease.

- Judgment against the guarantor of a lease on behalf of commercial landlord following a bench trial. Although the guarantor disputed execution of various documents and the damages sought by the landlord, the trial court entered judgment in favor of the landlord for all amounts sought in the lawsuit.
- Judgment in favor of commercial property developer in lawsuit involving a seller's breach of a commercial real estate contract when seller refused to return earnest money refundable to developer.
- Defended a national restaurant chain franchisee in a lawsuit filed by its franchisor for non-compliance with a franchise agreement and obtained a favorable settlement for the franchisee following the successful defense of the franchisor's application for injunctive relief.
- Obtained judgments for numerous businesses and individuals in lawsuits regarding debts owed and have successfully enforced such judgments through post-judgment collection activities.

### REPORTED CASES

- BBVA Compass Investment Solutions, Inc. v. Brooks, Cause No. 02-13-00047, 2015 WL 595209 (Tex. App.—Fort Worth Feb. 12 2015) (successful appeal of trial court denial of motion to compel arbitration).
- Superbag Operating Co. v. Sanchez, Cause, No. 01-12-00342, 2013 WL 396247 (Tex. App. Houston [1st Dist.] January 31, 2013) (successful appeal of trial court denial of motion to compel arbitration).
- Kramer v. Hollmann, Cause No. 02-11-00136, 2012 WL 5869423, (Tex. App.—Fort Worth Nov. 21, 2012) (appeal of trial court ruling following jury trial).
- Bever Properties, LLC v. Jerry Huffman Custom Builder, LLC, 355 S.W.3d 878 (Tex. App.—Dallas 2011) (defense of trial court victory on appeal).
- Pierre v. Greenstreet Properties of Texas, LLC, No. 05-09-00794, 2009 WL 3135240 (Tex. App.—Dallas Oct. 1, 2009) (defense of victory on summary judgment in trial court on appeal).
- In re Trammell, 246 S.W.3d 815 (Tex. App.—Dallas 2008, no writ) (successful defense of Third-Party Defendant's attempt to compel arbitration in trial court and on appeal).
- Brookview Partners, L.P. v. Hannah, 260 S.W.3d 643 (Tex. App.—Dallas 2008, no writ) (successful appeal of trial court's summary judgment ruling).

### Clients

- Federal Deposit Insurance Corporation
- Macy's Retail Holdings
- Altera Development Company
- Avison Young
- CGF Industries
- Amegy Bank
- First National Bank

### Testimonials

"I highly recommend Jeff without any hesitation based on his expertise, knowledge and professionalism. Jeff has tremendous skills and the talent it takes in presenting the case to obtain a successful outcome. The attention that Jeff paid

to detail was excellent. I was especially impressed with his presentation and presence in the courtroom. His demeanor and persona are superb. It was a very rewarding experience having had the opportunity be a client."

Cherie Roughneen, Practice Administrator  
Cardioplex

"I would highly recommend Jeff to anyone who is looking for a fair and honest, hard working attorney who will represent his client with passion, zeal, and determination. He is diligent, thorough, and knowledgeable and pursues numerous avenues to bring a victory in court."

Mark Borofsky, CCE, CEW, President / CEO  
CORE Strategies, LLC

"Jeff is a great attorney that aggressively represents the best interests of his clients."

Anthony DeBenedictis, Director  
BKD CPA's & Advisors

## Publications

- Author, "Texas Lender Beware: Loan Renewal May Cause Lender's Security Interest in Collateral to be Subordinated to Judgment Creditor's Lien," Lexology (May 28, 2015)
- Author, "Deficiency Calculations: Fair Market Value at Foreclosure Can Be Based on Post-Foreclosure Sale Price," Mondaq (May 20, 2015)
- Quoted, "What You Should Know About the Upcoming Fraud Liability Changes," National Federation of Independent Business, Clare Curley (April 14, 2015)
- Co-author, "ATM Operators Beware: Class Actions for Failing to Post Required Notices," KRCL Litigation Alert (June 2010).

## Presentations

- Interest Rate Swap Agreements: Overview and Litigation Issues – Presented at Texas Association of Bank Counsel Annual Conference on September 22, 2017.
- Texas Association of Bank Counsel, Banking 101 Webinar Series – Collection Issues presented on May 11, 2018.

## Community

- The Children's Trust, Children's Medical Center Foundation
- Highland Park United Methodist Church
- Park Cities YMCA